

REPORT OF THE EXECUTIVE OFFICER

California Victim Compensation and Government Claims Board

Relief from Liability for Overpayments in the Victim Compensation Program

September 24, 2004

Purpose of the Report

To request relief from liability for specific overpayments in the Victim Compensation Program for Fiscal Years 01-02, 02-03, and 03-04.

Summary

From time to time, an overpayment in the Victim Compensation Program is identified by Board staff. As a general rule, overpayments are pursued for collection by staff in the Lien and Overpayment Recovery Section. However, the Board has authority to determine that a recipient of an overpayment is not liable for repayment.

Staff last presented a request for relief from overpayment liability to the Board on March 27, 2001. Staff requests relief from liability for overpayments totaling \$117,332.71. Staff proposes to submit requests for relief from liability to the Board twice a year as necessary.

Analysis of Issues

Due to the nature of the verification process, some overpayments are bound to occur in a small percentage of applications and bills. During the past three fiscal years, the Victim Compensation Program has paid \$309,457,410 in benefits for 570,956 bills from 102,239 individuals. The overpayments included in this request amount to less than .4% of the program's payouts during the past three years.

Government Code Section 13965 provides:

- “(a) A person who has been overpaid or on whose behalf any provider or other person has been overpaid under this chapter is liable for that amount unless both of the following facts exist:
 - (1) The overpayment was not due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient.
 - (2) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience.
- (b) All overpayments exceeding two thousand dollars (\$2,000) shall be reported to the Legislature pursuant to Section 13928 and the relief from liability described in subdivision (a) shall be subject to legislative approval.”

Staff reviewed these claims and recommends the Board determine in each case that the overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient and each overpayment was received without fault by the recipient. In addition, staff recommends that the Board determine that recovery of each overpayment is against equity and good conscience. Each of these overpayments resulted from program staff's good faith misunderstandings concerning applicable laws or policies. The recipients justifiably relied on staff's determinations that the payments were authorized.

Board staff have implemented the following process improvements in order to prevent further overpayments in the Victim Compensation Program:

1. Implementation of a quality assurance process at the Board and Joint Powers offices.
2. Implementation of a new process to identify and resolve overpayments.
3. Training on new policies and overpayments at the Board and Joint Powers offices.
4. Completion of an updated and comprehensive desk manual for Program staff.

Recommendations

1. Determine that each overpayment meets the requirements of Government Code section 13965(a) and the person receiving each overpayment shall not be liable for repayment.
2. Direct the Executive Officer to include each individual overpayment over \$2,000 for legislative approval in an Omnibus Claims Bill.
3. Direct the Executive Officer to continue all necessary efforts to minimize overpayments.

Summary of Overpayments for which Relief from Liability is Recommended			
Application No. or Provider	Original Amount	Balance Due	Reason for Overpayment
728651	\$7,350.00	\$7,350.00	Paid for double burial plot.
700633	\$523.21	\$523.21	Derivative victim received income loss.
702298	\$3,209.86	\$3,209.86	Derivative victim who resided outside of the U.S. of a crime outside CA received mental health assistance.
673671 648841 644680 647426 644936	\$492.08 \$270.00 \$365.00 \$440.00 \$100.00	\$492.08 \$270.00 \$365.00 \$440.00 \$100.00	Mental health payments to victims who did not suffer physical injury or threat of physical injury and associated derivative victims.
698029 698030	\$7,500.00	\$7,500.00	Paid funeral and burial expenses for non-criminal homicide.
739181 739182	\$760.31	\$760.31	Paid support loss without deducting prior support loss payment.
712304 712306	\$1,431.99 \$6,733.28	\$1,431.99 \$6,733.28	Paid for transportation, per diem and income loss for victims who resided outside U.S. of crime outside U.S. and associated derivative victim.
564153	\$1,512.80	\$1,512.80	Paid incorrect amount of income loss.
505571	\$873.18	\$873.18	Paid incorrect amount of income loss.
South Bay Community Services	\$1,070.00	\$1,070.00	Paid for mental health services for which victim had no pecuniary loss.
Rainbow Services	\$10,917.00	\$10,917.00	Paid for mental health services for which victim had no pecuniary loss.
Jenesse Center	\$24,846.00	\$24,846.00	Paid for mental health services for which victim had no pecuniary loss.
Walnut Avenue Women's Center	\$48,938.00	\$48,938.00	Paid for mental health services for which victim had no pecuniary loss.
Total	\$117,332.71	\$117,332.71	